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AZ CORP COMMISSION
DOCKET CONTROL

BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

KRISTIN K. MAYES, CHAIRMAN
GARY PIERCE
PAUL NEWMAN
SANDRA D. KENNEDY
BOB STUMP

**IN THE MATTER OF THE
COMMISSION ON ITS OWN MOTION
INVESTIGATING THE FAILURE OF
TRUXTON CANYON WATER
COMPANY TO COMPLY WITH
COMMISSION RULES AND
REGULATIONS.**

Docket No. W-02168A-10-0247

**NOTICE OF FILING OF REBUTTAL
TESTIMONY AND POTENTIAL
EXHIBITS**

Truxton Canyon Water Company ("Company"), hereby gives notice that it is
filing the rebuttal testimony of the following witnesses:

- Chris Hopper (Attachment 1); and
- Rick Neal (Attachment 2).

The rebuttal testimony of each of these witnesses is being submitted with this notice. The
potential exhibits are being submitted as exhibits in a separate pleading.

Arizona Corporation Commission

DOCKETED

DEC 10 2010

DOCKETED BY

1 RESPECTFULLY SUBMITTED this 10th day of December, 2010.

2
3 MOYES SELLERS & SIMS

4 

5 Steve Wene

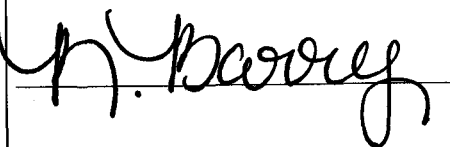
6 Attorneys for Truxton Canyon Water Company

7
8 Original and 13 copies of the foregoing
9 filed this 10th day of December, 2010, with:

10 Docket Control
11 Arizona Corporation Commission
12 1200 West Washington
13 Phoenix, Arizona 85007

14 Copy of the foregoing mailed this
15 10th day of December, 2010, to:

16 Kimberly Ruht
17 Legal Division
18 Arizona Corporation Commission
19 1200 West Washington Street
20 Phoenix, Arizona 85007

21 

Attachment 1

1
2 **BEFORE THE ARIZONA CORPORATION COMMISSION**
3
4

5 **COMMISSIONERS**

6 KRISTIN K. MAYES, CHAIRMAN
7 GARY PIERCE
8 PAUL NEWMAN
9 SANDRA D. KENNEDY
10 BOB STUMP

11 **IN THE MATTER OF THE**
12 **COMMISSION ON ITS OWN MOTION**
13 **INVESTIGATING THE FAILURE OF**
14 **TRUXTON CANYON WATER**
15 **COMPANY TO COMPLY WITH**
COMMISSION RULES AND
REGULATIONS

Docket No. W-02168A-10-0247

REBUTTAL TESTIMONY OF
CHRIS HOPPER

16
17 **Q-1 Please state your name and current employment position:**

18 **A-1** My name is Chris Hopper. I am currently a managing member of Blackhawk
19 Developers.
20

21 **Q-2 Describe your educational and professional background:**

22 **A-2** In 1983, I graduated from the University of Nevada at Las Vegas with a B.S. in
23 Business Administration. From 1983 to 1991, I worked for H&H Door. From 1991 to
24 2007, I was the principal owner of Hopper Building Supply and Hopper Resources.
25 From 2007 forward, I have been a managing member of Blackhawk Developers, which
26 has assumed the management of Truxton Canyon Water Company.
27
28

Q-3 What is the purpose of your testimony?

1
2 A-3 The purpose of my testimony is to address issues raised by Staff concerning the
3 Company's financial matters and record keeping.
4

5 **Q-4 Please comment on Staff's recommendation that the Commission order**
6 **Truxton to record its long-term debt obtained from the Trust without prior**
7 **Commission approval as additional paid-in capital by the Trust.**
8

9 A-4 Company disagrees with this position, but understands the applicable rules and
10 Staff's position.
11

12 **Q-5 Please comment on Staff's recommendation that the Commission order**
13 **Truxton to bring its accounting books and records into compliance with National**
14 **Association of Regulatory Utility Commissioners Uniform Systems of Accounts and**
15 **Generally Accepted Accounting Principles, no later than 30 days from the date of**
16 **Commission decision in this docket.**
17

18 A-5 Company has already brought its accounting book and records into compliance
19 from January 1, 2010, forward. Assuming the Staff does not intend to require the
20 Company to revise its books and records prior to 2010, then the Company has no problem
21 with this recommendation.
22

23 **Q-6 Please comment on Staff's recommendation that the Commission order**
24 **Truxton to file a rate case no later than September 30, 2011, based on a Test Year**
25 **ending June 30, 2011.**
26

27 A-6 The Company anticipates filing a rate case as soon as practical after this
28 proceeding is resolved.

1 **Q-7 Please comment on Staff's recommendation that the Commission order**
2 **Truxton to have the Trust grant Staff access to the Trust's accounting books and**
3 **records, for Staff's regulatory audit, during Truxton's rate case proceedings.**

4
5 A-7 The Company has no problem giving Staff all financial records that relate to the
6 water systems and system operations. However, the Trust is not regulated by the
7 Commission and it has financial data that is personal and unrelated to the water systems,
8 and the Trust has every right to keep that information confidential.
9

10 **Q-8 Please comment on Staff's recommendation that the Commission order**
11 **Truxton to comply with A.A.C. R14-2-411(A)(2) on the issue of timely response to its**
12 **customers and the Commission.**

13
14 A-8 The Company has no problem with this recommendation. However, we would ask
15 that the Commission Staff contact either me or Rick Neal because we are now acting
16 management for the Company.
17

18 **Q-9 Please comment on Staff's recommendation that the Commission order**
19 **Truxton to comply with R14-2-406 on the issue of Main Line Extension Agreement**
20 **("MXA").**

21
22 A-9 The Company has no problem with this recommendation.

23 **Q-10 Please comment on Staff's recommendation that the Commission order**
24 **Truxton to file all its future MXA's for Commission approval.**

25
26 A-10 The Company has no problem with this recommendation.

27 **Q-11 Please comment on Staff's recommendation that the Company install meters**
28 **at each interconnection location.**

1 A-11 The Company cannot afford to do so at this time.

2 **Q-12 Does that conclude your testimony?**

3
4 A-12 Yes.

5

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Attachment 2

1
2 **BEFORE THE ARIZONA CORPORATION COMMISSION**
3
4

5 **COMMISSIONERS**

6 KRISTIN K. MAYES, CHAIRMAN
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11 **IN THE MATTER OF THE**
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16 **COMMISSION RULES AND**
17 **REGULATIONS**

Docket No. W-02168A-10-0247

REBUTTAL TESTIMONY OF
RICK NEAL

18 **Q-1 Please state your name and current employment position:**

19 A-1 My name is Rick Neal. I am currently a managing member of Blackhawk
20 Developers.

21 **Q-2 Describe your educational and professional background:**

22 A-2 In 1984, I graduated from Northern Arizona University with a major in civil
23 engineering. From 1984 to 1989, I worked for McCarthy, a construction firm, in the
24 Phoenix area as a project engineer and manager. From 1989 to 1991, I was employed in
25 Washington D.C. essentially lobbying on behalf of agricultural interests. In 1991, I
26 moved to Las Vegas, Nevada, employed in the building and development industry. In
27 2007, Chris Hopper and I partnered to form Blackhawk Developers, which is now
28

1 managing the Truxton Water Company.

2 **Q-3 What is the purpose of your testimony?**

3
4 A-3 The purpose of my testimony is to address operational issues and regulatory
5 compliance matters.

6 **Q-4 Please comment on Staff's recommendation that the Commission order**
7 **Truxton to be fully in compliance with Commission rules and regulations, no later**
8 **than September 30, 2011.**

9
10 A-4 The Company is willing to work on any issue that Staff wants resolved within this
11 time-frame. However, we believe that Staff should identify what rules and regulations
12 they believe the Company is not in compliance with. The Company has asked Staff
13 numerous times to identify what problems they believe currently exist, and Staff is
14 declining to do so. Therefore, the Company asks that the order require Staff to identify
15 the issues within a reasonable time. Second, if a compliance matter cannot be reasonably
16 achieved in that time-frame, an exception to this rule should be included. For example,
17 the arsenic levels exceed the maximum allowable levels, and the Company may need to
18 finance the construction of an expensive arsenic treatment plant. If that is the case, then a
19 September 30, 2011 deadline is not realistic.

20
21 **Q-5 Please comment on Staff's recommendation that the Commission order**
22 **Truxton to repair all leaks within its water systems, no later than June 30, 2011.**

23
24 A-5 We are not aware of any specific leak currently. It is impossible to identify and
25 fix all of the leaks on the system because miles of pipeline are buried and the system is
26 over 40 years old, so there are undoubtedly leaks that are not known. We know that leaks
27
28

1 will continue to occur, so the Company believes it is reasonable to require the Company
2 to fix any leak within 5 days of discovery, or inform Arizona Corporation Commission
3 Staff why the leak cannot be fixed within that time-frame, in which case, the Company
4 must fix it in a reasonable time-frame. For example, if a part needs to be ordered, but it
5 will not arrive for 3 days, then the Company should have 8 days to fix the leak.
6

7
8 **Q-6 Please comment on Staff's recommendation that the Commission order**
9 **Truxton to maintain no less than 20 psi, under all flow conditions, within its**
10 **certificated area, no later than June 30, 2011.**
11

12 A-6 The Company currently maintains 20 psi at the meters within its system. The
13 Company recognizes, however, that the pressure at an auto repair shop may fall under 20
14 psi sometimes. This is due to the fact that the auto repair shop is located in an area that is
15 approximately 500 feet in elevation higher than most of the area served by the Company.
16 To make matters worse, the auto repair shop was elevated approximately 24 feet above
17 grade and set back approximately 265 feet from the meter. The Company believes that
18 the customer should have been required to install a booster on his side of the meter to
19 maintain pressure. Otherwise, the other Company customers will have to pay for this
20 expense through rates.
21

22
23 **Q-7 Please comment on Staff's recommendation that the Commission order the**
24 **Trust to immediately cease and desist from providing water service within**
25 **Truxton's CC&N.**
26

27 A-7 The Company disagrees that this should be done immediately. The Trust has been
28 serving the golf course for approximately 40 years. Requiring Valle Vista Property

1 Owners Association to pay the tariff rates for Golf Course water will likely lead to the
2 golf course turf to go without water and die. The golf course will stop operating and the
3 community will suffer an extremely adverse impact and their property values will fall
4 drastically. Alternatively, with the Valle Vista Property Owners Association and
5 Commission approval, the Trust assigns the contract to Company until its term expires.
6

7 **Q-8 Please comment on Staff's recommendation that the Commission order the**
8 **Trust to transfer all its customers within Truxton's CC&N to Truxton, no later than**
9 **30 days from the effective date of the Commission's Order in this docket.**
10

11 A-8 This is acceptable so long as the golf course is treated as described above.
12

13 **Q-9 Please comment on Staff's recommendation that the Commission order**
14 **Truxton to file a report with Docket Control, no later than 30 days from date of the**
15 **Commission Order in this proceeding, confirming that the Trust has transferred to**
16 **Truxton all its customers within Truxton's CC&N, including but not limited to**
17 **Valle Vista Property Owners Association and its Golf Course.**
18

19 A-9 This is acceptable so long as the golf course is treated as described above.
20

21 **Q-10 Please comment on Staff's recommendation that the Commission authorize**
22 **Staff to appoint an Interim Manager for Truxton, without further action of the**
23 **Commission, if its rate case filing does not meet sufficiency requirements by**
24 **November 30, 2011.**
25

26 A-10 The Company does not agree that the Commission can, or should, take over the
27 management of the Company if for some reason the Company has not met this
28 recommendation.

1 **Q-11 Please comment on Staff's recommendation that the Commission order**
2 **Truxton to be fully in compliance with ADEQ rules and regulations, no later than**
3 **September 30, 2011, or by the date required in any ADEQ Consent Order,**
4 **whichever date comes first.**

5
6 A-11 The order should state that the Company should be in material compliance with all
7 ADEQ rules and regulations because, strictly speaking, full compliance with ADEQ rules
8 and regulations is impossible. Further, the order should be consistent with the proposed
9 consent order offered by ADEQ, and no other deadlines should be imposed.
10

11
12 **Q-12 Please comment on Staff's recommendation that the Commission order Staff**
13 **to appoint an Interim Manager for Truxton, without further action of the**
14 **Commission, if Truxton is not fully in compliance with all Commission and ADEQ**
15 **rule and regulations by September 30, 2011.**

16
17 A-12 We do not believe the Commission can or should appoint an Interim Manager.
18 Further, as stated above, full compliance is impossible and even material compliance may
19 be impossible if substantial infrastructure construction is needed and financing needs to
20 occur. Further, the order should refer to a finding of no major deficiencies, not "full
21 compliance".
22

23 **Q-13 Please comment on Staff's recommendation that the Commission order**
24 **Truxton to file any Notice of Violation ("NOV") issued by ADEQ, with Docket**
25 **Control within 7 days of receipt of such NOV. Subsequent to the transmission of**
26 **such NOV, Truxton will continue to provide copies to Docket Control of all relevant**
27 **documents, including but not limited to any documents or pleadings filed by ADEQ**
28

1 and/or by Truxton relating to the NOV and the steps Truxton takes to come in
2 compliance, until the ultimate resolution of the NOV.
3

4 A-13 The Company is to file any such documentation with the Commission.

5 **Q-14 Please comment on Staff's recommendation that if Truxton fails to file the**
6 **required documentation form with ADEQ within the required time-frame, or fails**
7 **to timely provide Docket Control with copies or any NOV as required herein, the**
8 **Commission should order the Utilities Division Director to commence an OSC**
9 **proceeding against Truxton, seeking such sanctions and Orders as the Director**
10 **deems appropriate.**
11

12
13 A-14 The Company believes this to be an overreaction.

14 **Q-15 Please comment on Staff's recommendation that the Commission order**
15 **Truxton to repair any and all leaks in a timely manner and provide Consumer**
16 **Services Staff with a monthly status report to be filed as a compliance item.**
17

18 A-15 The Company has no objection to this recommendation.
19

20 **Q-16 Please comment on Staff's recommendation that the Commission order**
21 **Truxton to comply with A.A.C. R14-2-411(A)(2) on the issue of timely response to its**
22 **customers and the Commission.**

23 A-16 The Company has no objection to this recommendation.
24

25 **Q-17 Please comment on Staff's recommendation that the Commission order**
26 **Truxton to comply with R14-2-406 on the issue of Main Line Extension Agreement**
27 **("MXA").**
28

A-17 The Company has no objection to this recommendation.

1 **Q-18 Does that conclude your testimony?**

2 **A-18 Yes.**